

FEBRUARY 15, 2011

**CITY OF GUNNISON COUNCIL
SPECIAL SESSION MINUTES**

7:00 P.M.

The Special Session was called to order at 7:00 P.M., by Mayor Ferguson with City Councilors Miller, Harriman, and Houck present along with City Manager Coleman, City Clerk Davidson, Police Chief Robinson, several interested citizens and the press. City Attorney Landwehr and Councilor Nesbitt were absent. A Council quorum was present.

FEBRUARY 15, 2011

PUBLIC HEARING

7:00 P.M.

Receive Public Input on Gunnison Post No. 4267 Veterans of Foreign Wars, 107 S. 12th Street, Gunnison, CO, Club Liquor License Application.

Mayor Ferguson called the Public Hearing to order at 7:00 P.M. and stated it is Tuesday, February 15, 2011, at 7:00 P.M. in the City Council Chambers of City Hall, 201 W. Virginia Avenue in Gunnison, CO and the purpose of the Public Hearing is to receive public input on the Gunnison Post No. 4267 Veterans of Foreign Wars, 107 S. 12th Street, Gunnison, CO, Club Liquor License Application. Present at the hearing are Mayor Ferguson, City Councilors Miller, Harriman and Houck, City Manager Coleman, City Clerk Davidson, Police Chief Robinson, the applicant, several interested citizens and the press.

Mayor Ferguson requested the applicant identify himself. Ken Deming identified himself as the VFW Quartermaster and representing the applicant. Mayor Ferguson then called for the report from the City Clerk.

City Clerk Davidson explained the duties of the Board. The City Council serves as the City of Gunnison Local Licensing Authority. All applications for new liquor licenses go through a dual process – approval on the local level by the Local Licensing Authority and approval by the State Liquor Authority. The Local Licensing Authority determines if the application is complete, if the needs and wants of the neighborhood would be met by issuing the liquor license at this location and if the applicants are of good moral character. This application is undergoing a concurrent review, it has been sent into the State and is being reviewed at the same time the City is reviewing the application. The City Attorney, City Staff including the Police chief, Fire Marshal and Building Inspector all review the application for compliance. At this time, no comments regarding application deficiencies have been received back from the State. The Public Hearing notice is published in the newspaper and the premises have been posted with the Public Hearing information. City Clerk Davidson provided both proof of publication and posting in Councils' packets. Mayor Ferguson entered the application, proof of publication and posting into the record. Mayor Ferguson also stated the Preliminary Investigation Report is in Council packets and asked if Council had any additional questions or comments. There were none.

Mayor Ferguson reiterated that the Neighborhood is within the Incorporated City Limits of Gunnison, Colorado. Mayor Ferguson called for the Applicant's testimony.

Ken Deming addressed Council. He thanked Council for holding the Special Session to expedite the application process. He then apologized for forgetting to fill out the paperwork in 2009 to renew the 2010 liquor license, and that is why they are now applying for a new Club Liquor License. The Post has had a liquor license since about 1949 when they incorporated. He just goofed. Council thanked Mr. Deming for his testimony. The applicant then presented Council with a petition demonstrating the needs and wants for the Club Liquor License. Mayor Ferguson entered the petition into the record.

Mayor Ferguson then stated there is a letter from Don Archuleta to enter into the record. Mayor Ferguson called for anyone wanting to give input in favor of the application. There was no further testimony in favor. Mayor Ferguson then called for testimony in opposition to the application.

Donald Archuleta, he has lived in Gunnison all his life, and served for two years as Commander down at the VFW Post. He thinks there is a problem with the whole Post. The failure to renew the license shows there is a problem. He would like to state that it's not good. There is a lot of smoking that goes on there but supposedly it is legal because of the number of employees. It is always under the radar. The bartenders are not qualified. On several occasions they were pretty well liquored up. According to Mr. Deming they can have a drink or two at the bar and that isn't against the rules. Another thing, two Veterans' Days ago, they had a ceremony and dinner there. The Veterans from the Nursing Home are invited and wheeled in but the bartenders never quit smoking, even when the guests are old and on oxygen. They wouldn't stop smoking. In his

letter, he states that a lot of local Veterans will not go to the Post because of the second hand smoke. The failure to renew the license shows that there is a problem there and it is not run appropriately. That's my story and I'm sticking to it. Council thanked Mr. Archuleta for his testimony.

Mayor Ferguson stated that this isn't a debate but that the Police Department can hold some classes for the bartenders regarding id checks and licensing and rules and how to conduct things. This might be an opportunity to improve the house and make things better. Mayor Ferguson called for any further testimony.

City Manager Coleman stated that maybe the City could help clarify the rules regarding smoking at the Post. Police Chief Robinson will assist with clarifying the rules. Councilor Miller stated that really doesn't have any bearing on the liquor license application. City Clerk Davidson informed Council that State Liquor has repeatedly stated that they have nothing to do with the Clean Air smoking compliance issues. City Clerk Davidson further informed Council that as the Local Liquor Licensing Authority they have the ability to place compliance stipulations or conditions, such as bartender training, be completed prior to the issuance of the City License.

The Public Hearing was closed at 7:13 P.M. and Council went into the Special Session.

Action on the Gunnison Post No. 4267 Veterans of Foreign Wars Club Liquor License Application.

Councilor Miller moved and Councilor Houck seconded the motion that the Club Liquor License for Gunnison Post No. 4267, Veterans of Foreign Wars, 107 S. 12th Street, Gunnison, Colorado, 81230, be approved for the following reasons:

1. There has not been a denial of an application at the same location, or a location within 500 feet thereof, by either the state or local licensing authority within the two years preceding the date of the application on the grounds that the reasonable requirements of the neighborhood were satisfied by existing outlets.

2. It appears from the evidence submitted with the application that the applicant is entitled to possession of the premises where the license is proposed to be exercised.

3. Selling Malt, Vinous and Spirituous Alcohol by the drink for on-premises consumption as proposed in the license application is not in violation of the zoning, fire and other applicable codes of the City of Gunnison or the laws of the State of Colorado.

4. The building where the applicant proposes to sell Malt, Vinous and Spirituous Alcohol by the drink for on-premises consumption as proposed in the license application, does not appear to be within 500 feet of any public or parochial school or the principal campus of any college, university, or seminary.

5. Within the City limits of the City of Gunnison, where liquor is proposed to be sold, there are the following existing other outlets:

- 5 - Beer and Wine Licenses
- 9 - Hotel/Restaurant Licenses
- 5 - Retail Liquor Store Licenses
- 1 - Arts License
- 2 - Brew Pub License
- 7 - Tavern Licenses
- 1 - Club Type Licenses
- 6 - 3.2% Beer Type License

6. All fees necessary for the application have been paid.

7. According to the information required by the State of Colorado Liquor Division and after testimony of the applicant at the public hearing, the applicant is of good moral character and possesses the qualifications necessary to conduct the type of business proposed.

Discussion ensued. Councilor Harriman asked that conditions be placed on the approval of the license in the findings and decision. The license will be approved once the bartenders and staff at the VFW Post take a refresher course in liquor rules from the Gunnison PD and the three violations noted in the memo, dated January 19, 2011, from Building Official Eric Jansen and Fire Marshal Dennis Spritzer be corrected. Councilor Miller amended his motion to include these stated conditions and Councilor Houck amended his second.

Roll call vote, yes: Miller, Harriman, Ferguson, Houck. Motion carried.

Roll call vote, no: None.

Adjournment: The Special Session Meeting was adjourned at 7:17 P.M.

Mayor

City Clerk